

# FINAL BILL REPORT

## SHB 1197

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### PARTIAL VETO

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Synopsis as Enacted

**Brief Description:** Regulating insurance, generally.

**Sponsors:** By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach and Kirby; by request of Insurance Commissioner).

**House Committee on Financial Institutions & Insurance**

**Senate Committee on Financial Institutions, Housing & Consumer Protection**

#### **Background:**

The Insurance Commissioner (Commissioner) is authorized to regulate all insurance business in Washington, including certification of various types of insurers, approval of rate and form contracts, licensing of agents and brokers, collection of premium taxes, and responding to consumer complaints.

#### Title Insurance Reserve Requirements:

A title insurance company must obtain a certificate of authority from the Office of the Insurance Commissioner (OIC) to conduct business in Washington. The certificate will not be issued unless the title insurer makes a guaranty fund deposit with the OIC. The amount required to be deposited is based on the size of the largest county in which the insurer is authorized to transact business. The amount ranges from \$10,000 for a county with a population under 15,000 up to \$200,000 for a county with a population over 500,000. Title insurers are also required to keep a reserve fund. The amount is determined by applying the rate of 25 cents for each \$1,000 of net increase of insurance the insurer has in force at the end of the year. This must continue or resume as needed to maintain the special reserve fund at an amount equal to not less than the required guaranty fund deposit. The reserve fund is held by the insurer as an additional guaranty fund and is used only for the payment of losses after the insurer's liquid resources have been exhausted.

#### Medicare Supplement:

Medicare Supplement products are designed to fill in the "gaps" where Medicare does not provide coverage. Medicare Supplement products are filed for review by the Insurance Commissioner. The products are subject to state and federal requirements, including the Health Insurance Portability and Accountability Act (HIPAA) and the Medicare Modernization Act of 2003.

#### Regulation of Commercial Property Casualty Forms:

Generally, commercial property casualty rates and forms must be filed with the Insurance Commissioner within 30 days of issuance. The Commissioner has, by rule, exempted certain commercial property casualty rates from filing but is precluded from doing so with forms.

Appointment of Agents:

Agents must be appointed by an insurer before they can place business with the insurer.

Group Life Insurance:

There is a limitation in a group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Insurer Anti-Fraud Plans:

Insurers must file an anti-fraud plan with the Insurance Commissioner. Annually, insurers must provide a summary report on actions taken under its anti-fraud plan to prevent and combat insurance fraud. The anti-fraud plans and summary of the insurer's anti-fraud activities are proprietary. They are not public records, are not subject to public examination, and are not discoverable or admissible in civil litigation. An insurer that fails to follow the anti-fraud plan is subject to a civil penalty of up to \$10,000 for each violation.

Managing General Agent:

A managing general agent is a person who manages all or part of the business of an insurer. An insurer's employee may not be a managing general agent. A managing general agent must be licensed by the Commissioner, designated as a managing general agent, and appointed by the insurer.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs):

HCSCs, HMOs, and MEWAs are required to prepay taxes based on a specific formula that factors in premiums and prepayment of health services. Payments are due in specified percentages at specified times in a calendar year.

Garnishment Exemption for Benefits Paid on Annuity Contracts:

By law, \$250 in annuity benefits are exempt from possible wage garnishments.

Service Contractors:

Application fees, renewal fees, and filings fees are deposited in the Insurance Commissioner's regulatory account.

Publication of Insurance Laws:

The Insurance Commissioner may publish the insurance code "and supplements thereto, and related statutes." The Insurance Commissioner may charge a reasonable fee to cover expenses. Funds received from the sales are considered a recovery of previous expenditure for appropriation purposes and are deposited into the State General Fund.

**Summary:**

Title Insurance:

The definition of title insurance is clarified throughout the code to reflect that it is insurance for owners of "real property." The minimum capital and surplus requirements for title insurers is established at \$2 million for basic surplus and \$2 million for additional surplus. Title insurers must maintain reserves sufficient to cover all known and unknown liabilities. The insurer must calculate an adjusted statutory unearned premium reserve as of the effective date of this provision. The adjusted statutory unearned premium reserve must be released from the reserve and restored to net profits over a period not to exceed 10 years. A supplemental reserve is established as necessary to cover the company's liabilities with respect to all losses, claims, and loss adjustment expenses. The supplemental reserve will be phased in through December 31, 2008. Domestic title insurers must keep invested funds in an amount not less than the reserve requirements specified above.

Medicare Supplement:

"Creditable coverage" is defined to be consistent with the federal HIPAA standard. Changes are made to address the Medicare Modernization Act of 2003 concerning prescription drug benefits. Federal portability concerns are addressed, and changes are made to account for Medicare Supplement Plans K and L.

Regulation of Commercial Property Casualty Forms:

The Commissioner may, by rule, exempt commercial property casualty forms from filing requirements.

Appointment of Agents:

The Insurance Commissioner may, by rule, allow agents to place business for up to 30 days before notifying the Commissioner of the appointment by the insurer.

Group Life Insurance:

The limitation is removed in a group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Anti-fraud Plans:

Insurers with gross written premiums of less than \$1,000 per year are exempted from filing an anti-fraud plan. The annual summary report must be filed by March 31 of each year, and penalties apply if filing is not timely.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs):

When a HCSC, HMO, or MEWA transfers a contract to another HCSC, HMO, or MEWA, the tax obligation is also transferred.

Managing General Agents:

A managing general agent must hold funds collected for an insurer in a fiduciary capacity in a Federal Deposit Insurance Corporation (FDIC) insured financial institution.

Publication of Insurance Laws:

The Insurance Commissioner's authority to publish insurance rules and insurance-related technical assistance advisories is clarified. Funds received from the sales may be deposited into the Commissioner's regulatory account.

Garnishment Exemption for Benefits Paid on Annuity Contracts:

With respect to annuity benefits, the amount that is exempt from wage garnishment is increased from \$250 to \$2,500.

Service Contractors:

Application fees, renewal fees, and filing fees are deposited in the State General Fund instead of the Insurance Commissioner's regulatory account.

Other:

Various technical changes are made to correct and repeal outdated statutory references.

**Votes on Final Passage:**

House	97	0
Senate	45	0

**Effective:** July 24, 2005

**Partial Veto Summary:** Vetoes the provisions that updated Medicare supplemental insurance statutes to conform with changes in federal law.